

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREGORY S. DAILY,
Plaintiff,

No. C-04-3791 PJH (EMC)

v.

FEDERAL INSURANCE COMPANY, *et al.*,
Defendants.

**ORDER GRANTING DEFENDANT'S
SECOND MOTION TO COMPEL
PRODUCTION
(Docket No. 126)**

Defendant Royal Indemnity Co. ("Royal") moves the Court to compel Plaintiff Gregory S. Daily to produce documents in response to certain requests for production. Essentially, through the requests, Royal seeks nonprivileged documents in the underlying litigation *Auerbach Acquisition Assocs., Inc. v. Daily* (Los Angeles Superior Court No. BC 285 134).

In response, Mr. Daily states that he is opposing the motion to compel because there is a protective order in the *Auerbach* case and the majority of documents sought by Royal fall under the protective order. Mr. Daily also states that, pursuant to that protective order, he has notified the necessary parties in the *Auerbach* litigation of Royal's discovery requests. U.S. Bancorp informed Mr. Daily "that it would not intervene, or take any other action to avoid production of the documents requested. To date, Daily's counsel has not heard from Auerbach's counsel." Opp'n at 2.

Because U.S. Bancorp has not expressed any fundamental opposition to the discovery sought by Royal, and because Auerbach has not objected nor otherwise responded despite notice since July 21, 2005, the Court orders production of the documents by Mr. Daily. As per the Court's previous

1 order of August 1, 2005, the documents shall be produced subject to the protective order governing
2 in the instant case.

3 This order disposes of Docket No. 126.

4
5 IT IS SO ORDERED.

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7 Dated: September 28, 2005



EDWARD M. CHEN
United States Magistrate Judge